

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Utility Consumers' Action
Network for Modification of Decision
07-04-043 so as to Not Force Residential
Customers to Use Smart Meters.

A.11-03-015
(Filed March 24,2011)

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
ON THE PROPOSED DECISION OF ALJ YIP-KIKUGAWA
MAILED OCTOBER 11, 2011**

I. INTRODUCTION

Pursuant to the California Public Utilities Commission's ("Commission") Rule of Practice and Procedure 14.3, the Division of Ratepayer Advocates ("DRA") respectfully submits Comments on the October 11, 2011 Proposed Decision ("PD") of Assigned Administrative Law Judge (ALJ) Yip-Kikugawa directing San Diego Gas & Electric Company ("SDG&E") to file a smart meter opt out proposal.

DRA fully supports the Proposed Decision and urges the Commission to expeditiously adopt the Decision. DRA agrees with the PD that SDG&E's proposal should include the analyses specified in Ordering Paragraphs 2 and 3 in addition to SDG&E's opt-out proposal, and that allowing SDG&E fourteen days to submit the proposal and analyses is entirely reasonable. DRA submits these brief comments in order to suggest two revisions to clarify a Finding of Fact and a Conclusion of Law in the PD.

II. PROPOSED REVISION TO FINDING OF FACT NO. 5.

The PD's Finding of Fact No. 5 states that "SDG&E is the only party able to provide information on the technological feasibility and costs to offer an alternative to the wireless smart meter." This is factually incorrect to the extent it suggests that no other party is able to provide information on the technological feasibility and costs to

offer opt-out alternatives. DRA and other parties will undoubtedly rebut, challenge, or perhaps even support, SDG&E's opt-out proposal and other analyses required by the PD. While SDG&E is undoubtedly the party in the best position to provide the information in the first instance, information provided by other parties could also be valuable and relevant to assessing opt-out proposals in SDG&E's service territory.

To be clear, DRA agrees with the PD's statement that it is "necessary and most efficient to have SDG&E provide information on all the opt-out alternatives, not just its proposed alternative."¹ As the PD correctly recognizes, requiring DRA or other parties to request this information through data requests would be a poor use of resources.² DRA therefore proposes the following revision only to eliminate potential concern that the Commission could exclude or not consider information and analyses submitted by other parties in response to SDG&E's analyses:

- DRA's Proposed Revisions to Finding of Fact No. 5: SDG&E is the only party in the best positionable to provide information, in the first instance, on the technological feasibility and costs to offer an alternative to the wireless smart meter.

III. PROPOSED REVISION TO CONCLUSION OF LAW NO. 2.

The PD's Conclusion of Law No. 2 concludes that "An opt-out alternative should not be adopted unless it is technologically feasible, can be offered at a reasonable cost to those customers opting out and does not impede the state's goals to deploy a Smart Grid." DRA recommends minor revisions to clarify that it is the Commission's intention that, as a result of this Proceeding, SDG&E will be ordered to provide some alternative (or alternatives) to customers who wish to opt out of having a wireless smart meter.

First, the word "impede" is ambiguous; in a sense every opt-out alternative and every individual's decision to opt out "impedes" the state's goals to deploy the Smart Grid. It may be that no single opt-out alternative will, strictly speaking, meet this

¹ Proposed Decision at 7.

² Id.

criterion. DRA suggests using the alternative language used in the PD that an opt-out alternative would need to be consistent with the state's goals to deploy a Smart Grid.³

Second, DRA is concerned that parties could read this conclusion of law and have an expectation that no opt-out alternatives will be adopted unless a party proposing an alternative proves that it satisfies all three criteria. Failing to adopt any alternative would be a colossal waste of the Commission's and the Parties' time and resources. Any opt-out alternative that is ultimately adopted will likely require a balancing among the three goals of (1) consistency with deployment of the Smart Grid, (2) technological feasibility, and (3) reasonable cost to opt-out customers.⁴ The DRA therefore recommends the following revisions to the Conclusion of Law to clarify that it is the Commission's intent that SDG&E will provide customers who do not wish to have a smart meter with wireless radio transmission at least one opt-out alternative:

- DRA's Proposed Revisions to Conclusion of Law No. 2: The An
opt-out alternative or alternatives adopted should, as much as
possible, not be adopted unless it is technologically feasible, can be
offered at a reasonable cost to those customers opting out, ~~and does~~
~~not impede~~ consistent with the state's goals to deploy a Smart Grid.

Respectfully submitted,
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³ Proposed Decision at 5.

⁴ One alternative that has less of an impact on Smart Grid deployment may be more expensive than other alternatives, or it may not be currently technologically feasible.